

**Consideration of Amendments to 312 IAC 11, which assists in implementation of IC 14-26-2 (the “Lakes Preservation Act”), to provide extended license durations for qualified activities; Administrative Cause No. 11-105W**

As set forth in Exhibit A, the Division of Water, Department of Natural Resources, recommends preliminary adoption of 312 IAC 11-3.5 to provide extended license durations for qualified temporary structures and for dredging activities. Extended license durations are specifically authorized by IC 14-26-2-17 which states the Natural Resources Commission “may adopt rules under IC 4-22-2 providing that a type of permit” issued under the Lakes Preservation Act and specified in 312 IAC 11 “expires more than two (2) years after it is issued.” The subject is currently addressed by a temporary rule that was recently approved by the DNR Director. The permanent rule would become effective on the date the temporary rule is scheduled to expire (July 1, 2012).

**Exhibit A**

**TITLE 312 NATURAL RESOURCES COMMISSION**

**Proposed Rule**  
LSA Document #11-

**DIGEST**

Amends 312 IAC 11 which governs the management of public freshwater lakes to authorize extended licensure durations for qualified temporary structures and dredging activities under IC 14-26-2-17. The subject is currently addressed by temporary rule at 20110629-IR-312110376ERA. Effective July 1, 2012.

**312 IAC 11-3.5**

SECTION 1. 312 IAC 11-3.5 IS ADDED TO READ AS FOLLOWS:

**Rule 3.5. Extended duration for qualified licenses**

**312 IAC 11-3.5-1 General principle for expiration of licenses issued IC 14-26-2 and 312 IAC 11**

**Authority:** IC 14-10-2-4; IC 14-26-2-17; IC 14-26-2-23

**Affected:** IC 14-26-2

Sec. 1. Except as provided in this rule, a license issued under IC 14-26-2 and 312 IAC 11 expires two (2) years after the license is issued. (*Natural Resources Commission; 312 IAC 11-3.5-1*)

**312 IAC 11-3.5-2 Effectiveness of individual licenses for temporary structures; seasonal removal and replacement**

**Authority:** IC 14-10-2-4; IC 14-26-2-17; IC 14-26-2-23

**Affected:** IC 14-26-2

Sec. 2. (a) Except as provided in section 5 of this rule, an individual license to construct a temporary structure expires unless the license holder completes the structure within two (2) years of the effective date of the license.

(b) Subsequent seasonal removal of a temporary structure completed timely under subsection (a) or under section 5 of this rule does not terminate a license, if the temporary structure conforms to the terms of the license when the structure is replaced.

(c) Subsection (b) applies to any temporary structure for which the department issues an individual license under this article after December 31, 2005.

(d) A person who wishes to modify a condition of an individual license to place a temporary structure must complete another licensure process before the structure is placed. (*Natural Resources Commission; 312 IAC 11-3.5-2*)

**312 IAC 11-3.5-3 Effectiveness of license to conduct dredging**  
**Authority: IC 14-10-2-4; IC 14-26-2-17; IC 14-26-2-23**  
**Affected: IC 14-26-2**

Sec. 3. (a) Except as provided in subsection (b) and in section 5 of this rule, a license to perform dredging expires two (2) years after issuance by the department.

(b) The deputy director for the bureau of water and resource regulation may extend the duration of a license for one (1) additional period, not to exceed two (2) years, upon receipt of a written request from the license holder which demonstrates one (1) or more of the following:

(1) Extraordinary climatic conditions have prevented completion of the anticipated project.  
(2) An unreasonable hazard to navigation or otherwise to public safety is likely to result if an extension is not granted.

(3) Unreasonable detrimental effects upon fish, wildlife, or botanical resources are likely to result if an extension is not granted.

(4) The project cannot be completed within the original period of two (2) years as a result of causes which were outside the control of the license holder and which could not have been avoided by the license holder's exercise of due care. (*Natural Resources Commission; 312 IAC 11-3.5-3*)

**312 IAC 11-3.5-4 Effectiveness of license contingent upon funding from the Federal government or the Lake and River Enhancement Fund**  
**Authority: IC 14-10-2-4; IC 14-26-2-17; IC 14-26-2-23**  
**Affected: IC 14-26-2**

Sec. 4. Except as provided in section 5 of this rule, a license expires five (5) years from the date of issuance if the application was made expressly contingent upon the receipt of funding from either:

(1) the Federal government; or  
(2) the Lake and River Enhancement Fund established by IC 6-6-11. (*Natural Resources Commission; 312 IAC 11-3.5-4*)

**312 IAC 11-3.5-5 Effectiveness of license extended by review**  
**Authority: IC 14-10-2-4; IC 14-15-7-3; IC 14-26-2-23**  
**Affected: IC 14-26-2**

**Sec. 5. If a person seeks review under IC 4-21.5 and 312 IAC 3-1 of a license issued by the department under IC 14-26-2 and this article, the term of the license is calculated from the date of final disposition of the review. (*Natural Resources Commission; 312 IAC 11-3.5-5*)**